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Docket No. PES-D-02-038/PES-0183

REMARKS / ARGUMENTS

Status of Claims

Claims 1-7, 9-27 and 31-32 are pending in the application. Claims 1-6, 9-15 and 31, stand rejected. Claims 7, 16-27 and 32 are allowed. Applicant has amended Claim 1, and has added new Claim 33, leaving Claims 1-7, 9-27 and 31-33 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §103(a) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §103(a)

Claims 1, 13-15 and 31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fujita (U.S. Publication No. 2002/0148502, hereinafter Fujita) in view of Dowdall (U.S. Patent No. 4,958,659, hereinafter Dowdall).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita/Dowdall as applied to claim 1 above, and further in view of Agricola et al. (U.S. Publication No. 2002/0134342, hereinafter Agricola).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita/Dowdall as applied to Claim 1 above, and further in view of Takeda et al. (U.S. Publication No. 2002/0092575, hereinafter Takeda).

Claims 4-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fujita as applied to Claim 1 above, in view of Belcher, Jr. (U.S. Patent No. 2,793,813, hereinafter Belcher).

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita/Dowdall.

Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita/Dowdall as applied to Claim 1 above, and further in view of Petite et al. (U.S. Publication No. 2002/125998, hereinafter Petite).

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Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita/Dowdall.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita/Dowdall as applied to Claim 1 above and further in view of Watson (U.S. Patent No. 3,322,135, hereinafter Watson).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita, Dowdall and Agricola et al. as applied to Claim 2 above, and further in view of Takeda et al.

Claims 1, 10, 14 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over McJones (U.S. Patent No. 3,719,196, hereinafter McJones) in view of Fujita and further in view of Dowdall.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over McJones, Fujita, Dowdall as applied to Claim 1 above and further in view of Agricola et al.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McJones, Fujita and Dowdall as applied to Claim 1 above and further in view of Takeda.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over McJones, Fujita and Dowdall as applied to Claim 1 above, and further in view of Belcher, Jr.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over McJones, Fujita and Dowdall.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over McJones, Fujita and Dowdall as applied to Claim 1 above and further in view of Petite et al.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over McJones, Fujita and Dowdall.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over McJones, Fujita and Dowdall as applied to Claim 1 above and further in view of Watson.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over McJones, Fujita, Dowdall and Agricola as applied to Claim 2 above and further in view of Takeda.

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Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over McJones, Fujita and Dowdall as applied to Claim 1 above and further in view of Fujita.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over McJones, Fujita and Dowdall as applied to Claim 1 above and further in view of Fujita.

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element of the instant invention in such a manner as to perform as the claimed invention performs. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Regarding Independent Claim 1 in view of Fujita and Dowdall

Applicant has amended Claim 1 to now recite, inter alia,

“...a power source in electrical communication with each of the actuatable valves, wherein the power source has *sufficient power output to actuate only one of the actuatable valves at a time* to an actuated state and *insufficient power output to simultaneously actuate more than one of the actuatable valves* to an actuated state.”

No new matter has been added as antecedent support can be found in the application as originally filed, such as at Paragraph [0028], for example.

Dependent claims inherit all of the limitations of the respective parent claim and any intervening claim.

The Examiner applies Fujita for its teaching that “Fujita implicitly discloses that only one valve is actuated in certain modes; thus actuation of the other valves is prevented in those modes.” Paper 20061208, page 2. The Examiner also comments that “The term ‘configured to’ does not specifically define that the system can only have one valve functioning at a time.” Paper 20061208, page 13.

In view of the foregoing amendment, Applicant has more specifically defined the claimed invention to be directed to a power source that has *sufficient power output to*

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actuate only one of the actuatable valves at a time to an actuated state and *insufficient power output to simultaneously actuate more than one of the actuatable valves* to an actuated state.

In comparing Fujita with the claimed invention, Applicant finds Fujita to disclose and teach "...trouble detecting means which judge a trouble of the gas pressure detecting means on the basis of the opening and closing actions of *at least two stop valves*..." Paragraph [0006].

Thus, while Applicant's claimed system can have only one valve functioning at a time, the disclosure and teaching of Fujita includes means responsive to the opening and closing actions of *at least two stop valves*, which is contrary to the claimed invention, and which is not cured by the teachings of Dowdall.

In view of the foregoing, Applicant submits that the combination of references fail to suggest or teach each and every element of the claimed invention arranged so as to perform as the claimed invention performs, and there cannot establish a prima facie case of obviousness.

Regarding Independent Claim 1 in view of McJones, Fujita and Dowdall

Applicant has amended Claim 1 as set forth above.

The Examiner applies McJones for its teaching of "Means is also provided to prevent gas communication between a container and the source of pressurized gas when another container is being charged." Paper 20061208, page 7, referencing McJones at col. 2, lines 9-12.

In comparing McJones with the claimed invention, Applicant finds McJones to disclose and teach "Means is provided for maintaining *each sequencer valve means in its fill position*..." (col. 1, line 68, through col. 2, line 2), which is contrary to the claimed invention, and which is not cured by Fujita and Dowdall.

Here, Applicant finds McJones to be completely absent any teaching or suggestion of a power source that has *sufficient power output to actuate only one of the actuatable valves at a time* to an actuated state and *insufficient power output to simultaneously actuate more than one of the actuatable valves* to an actuated state.

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Even in combination with Fujita and Dowdall, Applicant finds the combination of References to be absent each and every element of the claimed invention arranged so as to perform as the claimed invention performs.

Accordingly, Applicant submits that the References fail to establish a prima facie case of obviousness.

Regarding Dependent Claims 2-6, 9-15 and 31

Applicant submits that Claims 2-6, 9-15 and 31 are allowable at least for the reason that they depend from an allowable claim.

In addition to the foregoing, Applicant finds no motivation or teaching in any of the References to modify a primary Reference in view of its respective secondary Reference to arrive at the claimed arrangement of elements without disturbing the operating characteristics and intended purpose of the art being modified.

For example, if Fujita were to be modified such that it included a power source that has *sufficient power output to actuate only one of the actuatable valves at a time* to an actuated state and *insufficient power output to simultaneously actuate more than one of the actuatable valves* to an actuated state, Applicant submits that such an arrangement would defeat the ability of *Fujita to open and close at least two stop valves*, as presented at paragraph [0006], thereby defeating the purpose of Fujita. As such, Applicant submits that one skilled in the art would not be motivated to use Dowdall to modify Fujita to arrive the claimed invention.

As further example, if McJones were to be modified such that it included a power source that has *sufficient power output to actuate only one of the actuatable valves at a time* to an actuated state and *insufficient power output to simultaneously actuate more than one of the actuatable valves* to an actuated state, Applicant submits that such an arrangement would defeat the ability of *McJones to provide means for maintaining each sequencer valve means in its fill position*, as presented at column 1, line 68, through column 2, line 2, thereby defeating the purpose of McJones. As such, Applicant submits that one skilled in the art would not be motivated to use Fujita or Dowdall to modify

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McJones to arrive the claimed invention.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the patent Applicant has done, fail to offer any reasonable expectation of success in combining the References to perform as the claimed invention performs, fail to teach a modification to prior art that does not render the prior art being modified unsatisfactory for its intended purpose, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

Regarding New Claim 33

Applicant has added new Claim 33, which essentially reintroduces the language of Claim 8 back into dependent form. Applicant has also further amended Claim 1 in consideration of the language of new Claim 33. In view of the amendments and remarks set forth above, Applicant submits that Claim 8 is allowable at least for the reason that it depends from an allowable claim. Accordingly, Applicant respectfully requests notice of allowance thereof.

If a communication with Applicant's Attorneys would assist in advancing this case to allowance, such as to discuss alternative language, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130.

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In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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